



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R09-OAR-2022-0953; FRL-10502-02-R9]

Designation of Areas for Air Quality Planning Purposes; California; Coachella Valley Ozone Nonattainment Area; Reclassification to Extreme

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is granting requests by the California Air Resources Board (CARB) to reclassify the Coachella Valley ozone nonattainment area in California from “Severe-15” to “Extreme” for the 2008 ozone national ambient air quality standards (NAAQS). This action does not reclassify any areas of Indian country within the boundaries of the Coachella Valley 2008 ozone nonattainment area. The new applicable attainment date for the Coachella Valley ozone nonattainment area for the 2008 ozone NAAQS will be the date by which attainment can be achieved as expeditiously as practicable, but no later than July 20, 2032. In connection with the reclassification, the EPA is approving a deadline of no later than 18 months from the effective date of this rule for submittal of revisions to the Coachella Valley portion of the California state implementation plan (SIP) to meet additional requirements for Extreme ozone nonattainment areas. Lastly, the EPA is extending our previous limited approval of the motor vehicle emissions budgets to new budgets to be developed as part of a SIP meeting the Extreme area requirements for the Coachella Valley.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2022-0953. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g.,

confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Khoi Nguyen, Planning & Analysis Branch (AIR-2-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947-4120, or by email at nguyen.khoi@epa.gov.

SUPPLEMENTAL INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Proposed Action

On January 11, 2023, the EPA proposed to grant a request by the State of California to reclassify the Riverside County (Coachella Valley), CA ozone nonattainment (“Coachella Valley”) area from Severe-15 to Extreme for the 2008 ozone NAAQS.¹ Our January 11, 2023 proposed rule provides background information on the EPA’s promulgation of the 2008 ozone NAAQS and the area designations and classifications for the 2008 ozone NAAQS.

The proposed rule describes CARB’s requests for reclassification of the Coachella Valley from Severe-15 to Extreme for the 2008 ozone NAAQS and the basis for our proposed approval

¹ 88 FR 1543.

of the requests. The proposed rule also describes the Extreme area requirements applicable to the Coachella Valley nonattainment area following the EPA's approval of the voluntary reclassification requests and proposes a deadline of no later than 18 months from the effective date of reclassification for submittal of revisions to the Coachella Valley portion of the California SIP that address the Extreme ozone nonattainment area requirements. The proposed rule further describes the EPA's proposal to continue to limit the duration of our approval of the budgets in the 2016 Coachella Valley Ozone SIP until we find revised budgets developed for the Extreme area plan to be adequate.² Lastly, the proposed rule clarifies that this action would not reclassify any areas of Indian country within the Coachella Valley. Please see the proposed rule for further detail concerning these topics.

Today, we are taking final action to grant CARB's requests to reclassify the Coachella Valley nonattainment area to Extreme nonattainment for the 2008 ozone NAAQS. Pursuant to the reclassification, the Coachella Valley nonattainment area will be required to attain the 2008 ozone NAAQS as expeditiously as practicable, but no later than July 20, 2032. We are also taking final action to establish a schedule of no later than 18 months from the effective date of this final action for CARB to submit SIP revisions addressing Extreme area requirements for the Coachella Valley and to submit revisions to the title V operating permit rules for the Coachella Valley. Lastly, we are finalizing our action to continue to limit the duration of our approval of the budgets in the 2016 Coachella Valley Ozone SIP until we find revised budgets developed for the Extreme area plan to be adequate. As explained in the proposal, this action does not reclassify any areas of Indian country within the Coachella Valley.

² The EPA previously approved motor vehicle emissions budgets for the Coachella Valley for the 2008 ozone NAAQS in 2020. 85 FR 57714 (September 16, 2020).

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, the EPA received two comments from private individuals. The full text of these comments is available in the docket for this rulemaking.

The first commenter generally supported our proposed action and indicated that the action will help to improve air quality by setting stricter standards for the region. We acknowledge the commenter's support of the EPA's proposed action and agree that reclassification of the area is appropriate for reasons cited by the commenter. As described below, we are finalizing the action as proposed.

The second commenter also supported the rulemaking action and asked that the EPA, if it has the authority to do so, insert additional requirements that further limit road transportation within the airshed or require the expansion of zero-emission public-transit networks within the Coachella Valley to further offset and reduce transportation emissions. The commenter also asserted that the state should be prohibited from issuing any new construction and/or operating permits for title V sources and other regulated stationary sources in the Coachella Valley. The EPA appreciates the commenter's support for the proposed action. While the measures suggested in the comment are outside of the scope of this rulemaking action and outside of the scope of the EPA's statutory authority, we note that the purpose of the reclassification action is to require CARB and the local air district to develop more stringent control measures to improve air quality under part D of title I of the CAA. The commenter may wish to raise ideas regarding specific control measures during the state plan development process.

III. EPA Action

Pursuant to CAA section 181(b)(3), the EPA is granting a request by the State of California to reclassify the Coachella Valley ozone nonattainment area from Severe-15 to Extreme for the 2008 ozone NAAQS. Upon reclassification, the Coachella Valley will be

required to attain the 2008 ozone NAAQS as expeditiously as practicable, but no later than July 20, 2032.

In connection with the reclassification, and pursuant to our general CAA section 301(a) authority, the EPA is establishing a deadline of no later than 18 months from the effective date of this action for the submittal of SIP revisions addressing the Extreme area requirements applicable to the Coachella Valley nonattainment area.³ We are also establishing 18 months from the effective date of this action as the deadline for the submittal of any corresponding revisions, or certifications, as appropriate, to the NSR and title V program rules that apply in the affected area.⁴ Lastly, we are finalizing our action to continue to limit the duration of our approval of the motor vehicle emissions budgets in the 2016 Coachella Valley Ozone SIP until we find revised budgets developed for the Extreme area plan to be adequate.

This action does not reclassify any areas of Indian country. Under the EPA's Consultation Policy, the EPA consults on a government-to-government basis with federally recognized tribal governments when the EPA's actions and decisions may affect tribal interests.⁵ The EPA is currently undergoing this consultation process and any proposed reclassification of tribal lands will be addressed in a future rulemaking action.

With this action, we are updating the designation table at 40 CFR 81.305 to identify the new attainment classification for state lands within the Coachella Valley nonattainment area. We are also updating the table to revise the listing for the "Cabazon Band of Mission Indians" to

³ As described in the proposed rule, these requirements include: a base year emissions inventory, an emissions statement rule, a new source review (NSR) program, additional reasonably available control technology rules for the lower Extreme area major source threshold, a reasonably available control measures demonstration, an attainment demonstration, a reasonable further progress demonstration, contingency measures, an enhanced motor vehicle inspection and maintenance program, a clean fuels fleet program, enhanced ambient air monitoring, transportation control strategies and measures to offset emissions increases from vehicle miles traveled, a CAA section 185 fee program, and use of clean fuels or advanced control technology for boilers. The proposed rule includes more information about these requirements.

⁴ We note that this timeline is consistent with CAA section 502(i), which provides permitting authorities 18 months to correct problems related to administration of a title V program.

⁵ The EPA's Consultation Policy is available at <https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>.

specify the “Cabazon Band of Cahuilla Indians,” which reflects the tribe’s current federally recognized name.⁶

IV. Statutory and Executive Order Reviews

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this final action is not a “significant regulatory action” and therefore is not subject to Executive Order 12866. With respect to lands under state jurisdiction, voluntary reclassifications under CAA section 181(b)(3) are based solely upon requests by the state, and the EPA is required under the CAA to grant them. These actions do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by reclassification, reclassification does not impose a materially adverse impact under Executive Order 12866. For these reasons, this final action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

In addition, I certify that this final action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and that this final action does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), because the EPA is required to grant requests by states for voluntary reclassifications, and such reclassifications in and of themselves do not impose any federal intergovernmental mandate, and because tribes are not subject to implementation plan submittal deadlines that apply to states as a result of reclassifications.

This final action also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal

⁶ See 88 FR 1543, 1544 n.5. See also 88 FR 2112 (January 12, 2023) (noting the change in tribal name as recognized by the Bureau of Indian Affairs).

government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, Feb. 16, 1994), directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The air agency did not evaluate environmental justice considerations as part of its reclassification request; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This final action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, nor on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This final

action does not alter the relationship or the distribution of power and responsibilities established in the CAA.

This final action also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because the EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of Executive Order 13045 has the potential to influence the regulation.

As this final action establishes a deadline for the submittal of CAA required plans and information, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which

a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 2, 2023.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the EPA amends part 81, chapter I, title 40 of the Code of Federal Regulations as follows:

PART 81 – DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart C – Section 107 Attainment Status Designations

2. Section 81.305 is amended by revising the entry for “Riverside County (Coachella Valley), CA” in the table titled “California - 2008 8-Hour Ozone NAAQS [Primary and Secondary]” to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA-2008 8-HOUR OZONE NAAQS [Primary and Secondary]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
Riverside County (Coachella Valley), CA: ²				
Riverside County (part)		Nonattainment	[Insert date 30 days after date of publication in the <i>Federal Register</i>]	Extreme.
That portion of Riverside County which lies to the east of a line described as follows: Beginning at the Riverside-San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base				

<p>and Meridian; then east along the Township line common to Township 8 South and Township 7 South; then north along the range line common to Range 5 East and Range 4 East; then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; then west along the Township line common to Township 5 South and Township 6 South; then north along the range line common to Range 4 East and Range 3 East; then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; then north along the range line common to Range 2 East and Range 3 East; to the Riverside-San Bernardino County line. And that portion of Riverside County which lies to the west of a line</p>				
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described as follows: That segment of the southwestern boundary line of hydrologic Unit Number 18100100 within Riverside County.				
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation ³		Nonattainment		Severe-15
Augustine Band of Cahuilla Indians ³		Nonattainment		Severe-15
Cabazon Band of Cahuilla Indians ³		Nonattainment		Severe-15
Santa Rosa Band of Cahuilla Indians ³		Nonattainment		Severe-15
Torres Martinez Desert Cahuilla Indians ³		Nonattainment		Severe-15
Twenty-Nine Palms Band of Mission Indians of California ³		Nonattainment		Severe-15
* * * * *				

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

³ Includes Indian country of the tribe listed in this table located in the identified area. Information pertaining to areas of Indian country in this table is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

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